

In re:

Serial #: 09/756,688

For: Removable Bearing Assemblies

Filed: January 9, 2001

Inventor: Richard L. Fisher

GAU: 3617

Examiner: Avila

Docket #: Fisher-001221

**DECLARATION OF RICHARD L. FISHER**

I, Richard L. Fisher, declare as follows:

1. I am a citizen of the United States and reside at 34931 Goose Haven Road, Albany, MN 56307.
2. I am a founding shareholder and officer in the full-time employ of Fisher Beavertail Manufacturing, Inc, which I founded in 1997. Fisher Beavertail Manufacturing, Inc. manufactures and sells marine mud motors or motors for mud boats, and has been in the business of manufacturing and selling marine motors or motors for mud boats for approximately seven years.
3. I have been involved in the design, development and/or production of marine mud motors or motors for mud boats for more than seven years. Over the years I have looked at and worked with thousands of mud motors, referred to as motors for mud boats, as well as discussed these motors with owners, operators, salespeople and manufacturers of motors for mud boats, a.k.a. mud motors.
4. The combination internal combustion engine, elongated drive shaft, concentric drive tube and propeller illustrated and described in my patent application serial no. 09/756,688 is commonly referred to in the marine industry as a mud motor.

5. Prior to June 26, 1999 I conceived of a drive assembly for a marine mud motor, comprising: an elongate drive tube, configured for rotatably receiving a drive shaft therethrough, wherein a lower end of the drive tube includes a drive assembly housing, having a lower end; a bearing, in rotational communication between the drive assembly housing and the drive shaft; and a seal, contained within the drive assembly housing, configured to restrict contaminants from entering the drive assembly housing.
6. I commissioned Mr. Tom Weber to manufacture the above recited drive assembly housing prior to June 26, 1999. Mr. Weber completed the manufacture on or before June 26, 1999, as evidenced by check stub 2808 (Exhibit A, Affidavit of November 14, 2002) which was payment for said manufacture.
7. The drive assembly housing manufactured by Mr. Weber on or before June 26, 1999 included a housing inside diameter larger than the inside diameter of the drive tube, a seal, and a seal cap threadably engaging the housing. The bearing of that same housing on or before June 26, 1999 had an outside diameter greater than the inside diameter of the drive tube.
8. The previously submitted newspaper article (Exhibit B, Affidavit of November 14, 2002) was published on August 22, 1999 in the St. Cloud Times newspaper. The content was photographed and prepared before that date. The scalcd lower drive assembly housing manufactured by Mr. Tom Weber and enclosing a bearing is visible in the center photograph of Exhibit B, Affidavit of November 14, 2002 captioned "Mark Fisher attaches the motor to his boat for testing".
9. The mud motor including assembly housing and bearing photographed in Exhibit B, Affidavit of November 14, 2002 was assembled, tested and demonstrated, thereby constituting reduction to practice, on or before August 22, 1999 and was not concealed or abandoned, as *prima facie* evidenced by Exhibit B, Affidavit of November 14, 2002.

10. The assembly housing and bearing photographed in Exhibit B, Affidavit of November 14, 2002 formed the design upon which provisional patent application Serial No. 60/184,936 was prepared and filed on February 25, 2000 and subsequent patent application Serial No. 09/756,688 was prepared and filed on January 9, 2001.
11. The words "marine mud motor" set forth in the presently amended claims and the marine propulsion system 100 illustrated in figure 1 of our present pending patent application for a mud boat as described on page 2 in lines 12-18 and on page 7 in lines 12+ of our specification are recognized as interchangeable to those of ordinary skill in the art, and one skilled in the art would be able to recognize the identity and be enabled based upon our present disclosure.
12. The words "elongate drive tube" set forth in the presently amended claims and the casing 140 illustrated in figure 1 of our present pending patent application as described beginning on page 7 in lines 15+ of our specification are recognized as interchangeable to those of ordinary skill in the art, and one skilled in the art would be able to recognize the identity and be enabled based upon our present disclosure.
13. The words "drive shaft" set forth in the presently amended claims and the propeller shaft 130 illustrated in figure 1 of our present pending patent application as described beginning on page 7 in lines 15+ of our specification are recognized as interchangeable to those of ordinary skill in the art, and one skilled in the art would be able to recognize the identity and be enabled based upon our present disclosure.
14. The words "drive assembly housing" set forth in the presently amended claims and the bearing housing 210 illustrated in figure 2 of our present pending patent application as described beginning on page 8 in lines 1+ of our specification are recognized as interchangeable to those of ordinary skill in the art, and one skilled in the art would be able to recognize the identity and be enabled based upon our present disclosure.

15. The words "drive shaft" set forth in the presently amended claims and the propeller shaft 130 illustrated in figure 1 of our present pending patent application as described beginning on page 7 in lines 15+ of our specification are recognized as interchangeable to those of ordinary skill in the art, and one skilled in the art would be able to recognize the identity and be enabled based upon our present disclosure.
16. The words "seal cap" set forth in the presently amended claims and the cover 220 illustrated in figure 2 of our present pending patent application as described beginning on page 9 in line 21 of our specification are recognized as interchangeable to those of ordinary skill in the art, and one skilled in the art would be able to recognize the identity and be enabled based upon our present disclosure.
17. The words "drive assembly" set forth in the presently amended claims and the sealed bearing unit 200 illustrated in figure 1 of our present pending patent application as described on page 7 in lines 19+ of our specification are recognized as interchangeable to those of ordinary skill in the art, and one skilled in the art would be able to recognize the identity and be enabled based upon our present disclosure.
18. The words "a bearing in rotational communication between the drive assembly housing and the drive shaft" set forth in the presently amended claims do not require that the bearing be in rotational communication solely with the drive assembly housing. The location and operation of bearings 260 - 264 as illustrated in the figures of our present pending patent application for a mud boat and as described beginning in line 22 of page 7 of our specification are recognized as being in rotational communication between the drive assembly housing and drive shaft to those of ordinary skill in the art, and one skilled in the art would be able to recognize the identity and be enabled based upon our present disclosure.
19. The words "a seal contained within the drive assembly housing, configured to restrict

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contaminants from entering the drive assembly housing" set forth in the presently amended claims are recognized as being interchangeable with the description in the present specification of water being prevented from entering, and that in fact water is a contaminant and will be recognized and understood by those of ordinary skill in the art as not only being a contaminant, but also being the vehicle through which additional contaminants are transported. One skilled in the art would be able to recognize the identity and be enabled based upon our present disclosure.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize that validity of the application or any patent issuing thereon.

Dated: March 22, 2004

Signed:



Richard L. Fisher